



Washington State Department of
Labor & Industries
Workers' Compensation Services

Employers' Guide to Self-Insurance in Washington State



The information in this publication is current as of the publication date. Every attempt is made to keep the information up to date. Changes that occur periodically as a result of new legislation, administrative rule changes or court hearings will be included in subsequent printings.

Note: We use the following terms interchangeably in this publication:

- Industrial insurance and workers' compensation
- Employee and worker
- Department of Labor & Industries, Labor & Industries, and L&I

In this document, "you" refers to a self-insured employer or an employer considering applying for self-insurance.

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Introduction

This industrial insurance guide is for employers that are currently self-insured or are interested in becoming self-insured. This information is provided as a general guide; we hope that it helps you understand the processes and responsibilities involved in self-insuring. However, this publication is not a legal interpretation of the law.

Washington State is a “no fault” industrial insurance state. The Washington State Department of Labor & Industries (L&I) is the agency responsible for implementing the state's industrial insurance laws.

Self-insurance is a unique program in which the employer provides industrial insurance benefits to injured workers. L&I oversees the provision of benefits by the self-insurer to ensure compliance with its rules and regulations. We also review the financial strength of the self-insurer to ensure that workers' compensation obligations can be met.

For more information, contact L&I's
Self-insurance Section at 360-902-6867 or
P.O. Box 44891, Olympia, WA 98504-4891.



What is Self-Insurance?

Industrial insurance provides relief to workers from injuries or illness sustained in the course of their employment and is required of virtually all employers in Washington State. Employers in Washington must obtain industrial insurance either through the state industrial insurance fund or by qualifying to self-insure.

The self-insured employer has a long-term obligation to pay benefits during the lifetime of its claims. This commitment remains the employer's responsibility whether its self-insurance certification continues to be in effect or is surrendered by the employer.

Groups

Self-insurance for groups is currently limited by statute to school districts, educational service districts, and two hospital groups.

Joint ventures

A joint venture can apply for self-insurance if its sponsoring party is currently self-insured. A sponsoring party is defined as owning over 50 percent of the assets and profits of the joint venture. The sponsoring party would remain liable for the obligations of the joint venture after the completion of the joint venture agreement.

Other entities

L&I has specific provisions for certifying public entities and employee stock ownership programs. See WAC 296-15-024 and WAC 296-15-151 for more information.



Getting Certified to Self-Insure

To be considered for certification as a self-insured employer, an employer must meet all of the following criteria (WAC 296-15-021):

- Be in business for three years.
- Possess total assets of at least \$25 million as verified by fully audited financial statements.
- Meet certain financial standards:
 1. A current liquidity ratio of at least 1.3 to 1.
 2. Positive debt-to-net-worth ratio of not greater than 4 to 1.
 3. Positive earnings in two of the last three years.
 4. Overall positive earnings for the period.
- Have an L&I-approved written accident-prevention program in place in Washington State for six months prior to applying for self-insurance. This applies to all of its operations, including subsidiaries in Washington.
- Complete a *Self-Insurance Certification Questionnaire* (Form F207-176-000).

If an employer does not meet these minimum requirements, L&I's Self-Insurance Section will return the application without consideration.

More than the minimum is needed

Certification as a self-insured employer is not guaranteed simply because an employer meets the minimum requirements at the time it submits an application. You must also demonstrate to the department's satisfaction that you have:

- The financial capability to handle and maintain a self-insurance program.
- A commitment to maintain a safe and productive work environment at each of your Washington locations.

- Established an administrative organization capable of maintaining and supporting a self-insured program.

It is your responsibility to determine if a self-insurance program is in your best economic interest.

How long does certification take?

The application process takes three months to complete and coincides with the calendar quarters. For example, if we receive your application at the beginning of a calendar quarter (January 1st), it will be considered for certification at the beginning of the following calendar quarter (April 1st).

Required documentation

You must submit the following documentation with your application for self-insurance:

- Audited financial statements in the name of the applicant for the most recent three years prepared by an independent certified accountant.
- A check issued to L&I in the amount of the application fee (currently \$250).
- A copy of the written accident prevention program for each organization listed on the application. Depending upon the number of locations and entities included under the application, more than one copy of the accident prevention program may be required. If more than one company is listed on the application, a separate written accident prevention program is required for each company.
- A list of all subsidiaries or divisions doing business in the state including:
 1. A list of the physical location of all Washington operations including subsidiaries.
 2. A contact person and phone number at each location. This person must be familiar with the written accident prevention program for that location.

3. The number of employees at each physical location.

- A description of the organization that will administer your self-insured program (as listed on the Self-Insurance Certification Questionnaire (F207-176-000)).
- The name and qualifications of the contact person you are listing on your application.
- The name and qualifications of the safety contact person you are listing on your application.
- The name and qualifications of the individual you are designating to process the self-insured claims within the organization, including the date that L&I certified the individual, or the name and qualification of the third-party administrator selected to process its claims.

L&I's process for certification

During the first two months of an application period, L&I staff will review the effectiveness of your accident prevention program at department-selected locations. We will also analyze your financial capabilities, based on the audited financial information provided with your application, and your claims administration capabilities, based upon your answers to the claims administration questionnaire.

What happens if an applicant does not meet all requirements?

If an employer's accident prevention program, financial capabilities, or claims administration capabilities do not meet the requirements, L&I will deny the application.

If certification is denied for a safety concern, you must correct any deficiencies and have the corrections in place for six months before reapplying. If certification is denied for a financial concern, you can reapply after the next audited financial statement is available. If certification is denied for a claims administration concern, you can reapply after correcting those issues.

Tentative approval

If your application is tentatively approved for certification, you will have until the end of the third month of the calendar quarter to furnish the department any additional documentation that may be required.

Initial requirement for surety

Before you can be certified to self-insure, you must provide surety, or financial security for the fulfillment of your obligations, at the level that L&I will establish. L&I will set the initial requirement for surety for a self-insured employer at the highest of the following:

- The annual level of premiums the employer would pay into the state industrial insurance fund.
- The average of the last 5 years' developed incurred costs to the state industrial insurance fund for the employer and its subsidiaries.
- The minimum surety as determined annually by the department. The minimum surety is the average total cost of one total permanent disability award.

The employer may submit an analysis of its projected liabilities prepared by an independent actuary. L&I can accept or reject this analysis.

The surety requirement will not be less than the current minimum.

Finalizing Your Certification

Providing surety

The employer must provide surety at the level established by L&I. This may be in the form of a surety bond, or cash or governmental securities placed in an L&I-approved escrow depository. Or, if the employer has a net worth in excess of \$500 million, a letter of credit may be supplied. All surety documents must be issued on the correct L&I form and be received prior to the certification date.

Documenting claims administration

If you plan to use a third-party administrator to process your claims, you must provide a copy of the signed service contract. This copy of the contract may omit only the provision dealing with fees.

If you plan to self-administer your claims processing, you must provide proof that the individual selected to administer Washington claims is certified by L&I.

Acknowledgment of responsibility

You must provide an "Acknowledgment of Self-Insurance Responsibility" form signed by an authorized representative. (After you are tentatively approved to self-insure, L&I will mail this form to you.)

Copy of any excess insurance policy

If excess workers' compensation insurance (reinsurance) is obtained, you must provide a copy of the policy which includes the endorsements required for Washington.

Pay any outstanding balances

If any balance is due to the state industrial insurance fund, you must satisfy it in full prior to becoming self-insured. If a deficit condition exists in the state industrial insurance fund at the time you apply, you must also pay your share of the deficit prior to certification.

When all requirements are completed

L&I will issue a Certificate of Self-Insurance that signifies that the employer has qualified to self-insure its Washington workers' compensation liabilities. One certificate will be issued which not only covers the certified employer, but any and all of its subsidiary operations in which the self-insurer has at least 50 percent ownership and/or financial controlling interest. For certification purposes, all these entities will be considered as one employer.

Notifying your employees

The employer is responsible for notifying each of its own employees as well as employees of its subsidiaries what their rights and obligations are as an employee of a self-insured company. Within thirty days of hire, you must provide each of your employees with a "Workers' Compensation Filing Information" form (F207-155-000). Copies of this form can be printed off L&I's Web site at www.Lni.wa.gov/FormPub/. Forms are available in English and Spanish.

You must also display a reasonable number of "Notice to Employees – Self Insurance" posters (F207-037-000) within each workplace. These posters indicate who a worker should notify in case of a job injury and clarify that the employer is self insured. Posters are available at no charge by calling 360-902-6898 or by faxing your order to 360-902-6977. You can also print copies from L&I's Web site at www.Lni.wa.gov/FormPub/. Posters are available in English and Spanish.

Finally, you must make sure an adequate supply of claim filing forms, "Self-Insurer Accident Report" also known as SIF-2, are available to your employees upon request. These forms are pre-numbered with a unique L&I claim number, and can only be ordered by your claims organization directly from L&I's Self-Insurance Section. You can place orders by calling 360-902-6898, or by faxing 360-902-6977.

"Self-Insurer Accident Report" forms are available in English only. You are responsible for helping non-English speaking employees to complete the form. Because SIF-2 forms are pre-numbered, copies or substantially similar forms are unacceptable.

Reporting Requirements

Filing quarterly reports

As a self-insured employer, you must report claim costs and worker hours quarterly to L&I.

Other required reports

There are two reports you must submit annually to L&I:

Report	Due date
1. An audited financial statement prepared by an independent certified auditor	Within six months of a company's financial year-end
2. Annual report showing the amounts of claim payments and reserves. L&I uses this data to determine the surety requirement annually.	March 1



What happens if a report is submitted late?

If a self-insured employer fails to submit any of the above reports by the due date, L&I will assess a \$500 penalty. Interest will be assessed for each day that the quarterly report is delinquent. If an employer is habitually late in submitting its reports, self-insurance certification may be withdrawn.

Reporting changes in business structure

If a self-insured business changes its business structure, is acquired by another organization, sells either all or a portion of its operations, or purchases another organization, you are required to report this change in writing to L&I.

Reporting claim data via the *Self-Insurance Electronic Data Reporting System (SIEDRS)*

SIEDRS is a computer system that collects claim data electronically from self-insurers. Effective July 1, 2008, all self-insurers must send claim data to SIEDRS at least once a month, in the required format. This electronic reporting is in addition to other existing claim reporting requirements.¹ More information about SIEDRS is available online at www.SIEDRS.Lni.wa.gov.

¹ Claim reporting requirements for self-insured employers are outlined in WAC 296-15-320 through WAC 296-15-495.

Quarterly Assessments

Based on the information reported quarterly, a self-insured employer pays the following assessments to the Department of Labor & Industries:

1. **Administrative Assessment** – Pays for the operations of the self-insurance section and the other departmental and agency services that are provided to self-insured employers.

This assessment is based on the claim payments made during the quarter (this includes any payments made by the self-insurer, as well as any payments made by the state fund for any total permanent disability payments, or any claim payments for claims occurring prior to becoming self-insured). The rate is determined on a fiscal-year basis.

2. **Second-Injury Fund Assessment** – Provides for relief of claims that have been granted second-injury relief. Relief is provided for any claim that is granted a total permanent disability award (pension); the cause of the disability must be partially attributed to a prior injury or pre-existing condition which contributes to the total disability in order to qualify for second-injury relief.

The second-injury fund also provides for job modification and preferred worker costs. The assessment is based on claim payments made during the quarter. The rate is determined on a fiscal-year basis.

3. **Insolvency Trust Fund Assessment** – This assessment is for claim expenditures for self-insured employers that have defaulted on their obligations and exhausted their surety resources. Claim payments are the basis for this assessment. It is calculated on a calendar quarter basis and varies depending upon the amount needing to be collected.

4. **Supplemental Pension Fund and Asbestosis Fund Assessment** – The Supplemental Pension Fund covers increases in claims costs due to cost-of-living increases.

The Asbestosis Fund covers claims costs for workers who file claims for asbestos-related diseases; the fund pays for all treatment and other compensation during the sometimes lengthy time it takes to identify the liable employer or employers.

The assessment for each of these funds is combined into one rate, and is based on worker hours. You may deduct one-half of this rate from your employees' wages. This rate is calculated on a calendar year basis.

5. **Pay During Appeal Overpayment fund** – This assessment is paid only by the employees of a self-insured employer, but you are responsible for collecting the assessment and forwarding it to L&I.

This fund will be used to reimburse self-insured employers for benefits provided on claims during appeal periods where the result of the appeal process results in a claim overpayment. You can use the fund when you are unable to fully recover the overpayment from the worker. To be eligible for reimbursement from this fund, the overpayment must be the result of a decision by the Board of Industrial Appeals or the courts.

The assessment is based on worker hours, and the rate will be calculated on a calendar year basis.

Surety Requirements after Certification

To establish the appropriate surety for the coming year, L&I analyzes your annual report of claim expenditures and reserves using two actuarial models or methods.

1. The **incurred-loss method** evaluates the accuracy of the initial reserve established for a claim and how accurately those reserves survive the test of time.
2. The **paid-loss method** analyzes the amount of claim expenditures made on a claim and how quickly that claim can be closed.

How L&I calculates the surety

- If the difference between the two models is less than 25 percent, the surety is set at the level of the incurred loss method.
- If the difference between the two methods is 25–40 percent, the surety is set at the average of the two methods.
- If the difference is greater than 40 percent, L&I does additional analysis to determine what factors are influencing the difference and sets the surety requirement at a level appropriate for that employer.
- In no event would the surety requirement be set at less than the current minimum.

Additional aspects of surety requirement

You have the right to submit an independent actuarial estimate. L&I reviews the report and reserves the right to accept or reject it.

- If you change third-party administrators, L&I reserves the right to set the surety as if the difference between the two methods was over 40 percent. Third-party administrator reserving practices differ greatly and can impact the surety calculations.
- If the self-insurer has a parent organization, the parent must complete and submit an *Agreement of Assumption and Guarantee of Workers' Compensation Liabilities* form

(F207-040-001). If this parental guarantee is not furnished, L&I will add a surcharge of 25 percent to the surety requirement.

- L&I maintains that the initial reported reserves on a claim should be established at an appropriate level to provide benefits through closure of the claim, not just the benefits provided within the next 12 to 18 months.
- Financial watch — an alert that L&I is concerned with your ability to provide benefits to your injured workers, based on the department's analysis of your audited financial statements. If placed on financial watch, your firm would not be eligible to have its surety reduced and may have the surety requirement increased by an additional 25 percent.

Posting surety for pensions

The self-insurer may cover the cost of a pension by:

- Depositing the full amount into the pension reserve fund,
- Posting a bond in the total amount, or
- Establishing an assignment of account from a commercial banking institution in Washington.

These options are also available to you for pensions on fatality claims.

A self-insurer who uses the bond or assignment of account option must deposit an additional amount equal to three months' pension payments in the reserve fund. L&I reviews pensions each calendar year to determine the adequacy of the reserve and the surety posted.

On a quarterly basis during the life of the pension, you must reimburse L&I for its payments for bonded or assigned account pensions.

Recordkeeping Requirements

You must keep all of the following records, which must be open for L&I to examine. Accurate, properly maintained records will help you manage your business and, in case of an audit, minimize the time needed for an accurate review.

Keep complete records of all accidents, including minor ones. Even minor mishaps sometimes turn into injuries that require medical attention.

Claims log	<p>You must maintain a log of all claims filed on or after January 1, 1976, or on or after your certification date, whichever is most recent. Your claims log must contain the following information:</p> <ul style="list-style-type: none"> ■ Name of the injured worker, ■ Date of injury or first knowledge of any occupational disease, ■ L&I's claim number, ■ Date the claim is closed, and ■ Whether the claim is compensable or treatment only.
Record of all payments	Record all payments of compensation to injured workers.
Log of occupational injuries and illnesses	Your log of occupational injuries and illnesses at your workplaces must meet the legal requirements of the Washington Industrial Safety and Health Act (WISHA) and the federal Occupational Safety and Health Administration (OSHA).
Record of employment	Maintain all records of employment necessary to verify information reported and required by law.

Employee Benefits

Industrial insurance benefits in Washington State are set by the Legislature and change periodically. The Washington State Fund and self-insurers pay the same benefits.

Eligibility for benefits

An employee working in an occupation subject to mandatory coverage has immediate workers' compensation coverage upon employment. There is no waiting period.

The employee is entitled to benefits when an injury, illness, or death occurs during the course of employment. This also includes an injury sustained during a meal period on the employer's premises even though the worker was not working at the time.

Ineligibility

Benefits are not payable for intentional, self-inflicted injuries or suicide, or if the worker is injured while committing or attempting to commit a felony.

If a worker fails to comply with the intent and provisions of the law *and* you have the explicit approval of Labor & Industries, you can withdraw or suspend benefits.

Time limitations

Any claim for job injury benefits must be filed within one year following the date of injury. A claim for occupational disease must be made within two years after the worker receives written notification that the disease is occupationally related.

A claim may be reopened for medical, wage replacement, and other benefits due to aggravation of an injured worker's condition within seven years of the date of first closure (or within 10 years of loss of vision or function of the eye(s)). A claim may be reopened at any time after seven years (or 10 years for eye-related injuries) for medical treatment only. Reopening applications received by the self-insurer must be forwarded to L&I within five working days.

No evasion of benefits

No employer or worker may be exempted from industrial insurance responsibilities for benefits by any contract, agreement, rule, or regulation.

Medical services

An injured worker has the right to select his/her attending provider and is eligible for full medical coverage for the services required to treat the condition(s) caused by or related to the industrial injury or occupational condition.

What coverage may include

Workers' compensation coverage may include:

- Medical, surgical, hospital, nursing, ambulance, and other related services; and
- The cost of drugs, medicines, crutches, prosthetic appliances, braces, supports and other similar items necessary for the worker's treatment and recovery.

Transportation to medical care

If a worker's initial injury is serious enough to require transportation from the place of injury to a place of treatment, you must provide and pay for that transportation.

After initial treatment, travel expenses are paid only under certain circumstances; for example, when you request a medical examination or vocational services. (See WAC 296-20-1103 for details).

Temporary total disability (time-loss compensation)

If employees are unable to work because of an industrial injury or illness, you will make payments to them to partially replace their lost wages. These payments are known as time-loss compensation.

A worker receives time-loss compensation when he/she cannot work for more than three days following the date of injury. An attending provider must certify that the worker cannot work because of the injury or illness and subsequently verify that he/she can return to work. If the employer continues to pay full

wages while the worker is off the job, no time-loss is paid. (This practice is known as “kept on salary.”)

Payment is made for the first three days following the injury only when the worker is unable to work for 14 consecutive calendar days following the injury. However, a worker who makes an unsuccessful attempt to go back to work during this 14-day period is eligible for payment for any portion of the initial three days that is covered by the attending provider’s certification.

Compensation is paid according to a formula based on the worker’s gross wages from all employment (excluding overtime wages in most cases), marital status, and number of dependents at the time of injury. Minimum and maximum amounts payable are set by law.

Self-insurers determine the amount of benefits according to the law and are required to make first payment to the worker within 14 days following notice of a claim. After that, you must pay the worker twice a month or every two weeks for the duration of the temporary total disability.

Vocational rehabilitation services

Self-insured employers are responsible for identifying workers who need vocational assistance to return to work. Many self-insured employers have light duty return-to-work programs available to assist their injured workers in returning to employment while they are medically recovering.

Once the worker’s condition stabilizes, it’s time to consider more permanent options for returning to work. These options may include returning to modified work or to a new job consistent with the worker’s physical restrictions.

Vocational services may include early-return-to-work programs, vocational counseling and evaluation, job analysis, job modification, on-the-job training, or participation in a vocational plan. The self-insurer pays all reasonable and necessary costs of rehabilitation as provided by law. The injured worker may decline an approved vocational plan and be eligible for vocational costs for a period of five years after claim closure. You should be familiar with laws and regulations affecting vocational rehabilitation. Information is available online at www.Lni.wa.gov/ClaimsIns/Providers/Vocational/.

Financial assistance for job modifications

If the injured worker is returning to work with the employer of injury, that employer may ask L&I for financial assistance to pay for modifications to the job site in order to adapt it to the worker’s physical restrictions. Financial assistance is limited to \$5,000 and is intended to be a share of the total cost to the self-insurer. For more information, visit L&I’s Web site at www.Lni.wa.gov/ClaimsIns/Providers/Vocational/Tools/

Permanent disabilities — partial and total

When an injury results in a permanent disability, the law allows a monetary award for the loss suffered. Awards are determined on the basis of ratings secured from certain health-care providers.

Permanent partial disabilities

For permanent partial disabilities, the self-insurer pays the award directly to the injured worker.

Total permanent disabilities (pensions)

For total permanent disabilities (pensions), L&I makes the pension payments to the worker on behalf of the self-insurer.

For injury claims for which a pension is awarded on or after July 1, 1986, pension benefits will be reduced if the injured worker also is eligible for a Social Security pension.

Death benefits

When an accident causes the death of a worker, the surviving spouse and eligible dependents receive monthly payments from a pension established for them. A burial allowance and an immediate cash payment, set by law, also are paid.

If the surviving spouse remarries, the law offers a choice between a final cash settlement of the pension or the right to resume monthly pension benefits if the marriage ends because of death or divorce. Other eligible dependents continue to receive monthly benefits, as fixed by law, even though the surviving spouse remarries.

If the deceased worker has no beneficiaries, the self-insurer must pay \$10,000 into the supplemental pension fund.

Processing Claims

This Section describes basic claims processes.

Filing a claim

Every claim for benefits is initiated by the worker or someone acting on their behalf. The claim must include a statement about the injury and a diagnosis from a doctor. You and the worker must complete a “Self-Insurer’s Accident Report,” also referred to as an SIF-2 (F207-002-000) to obtain an L&I claim number and to satisfy reporting requirements. You must provide the accident report to the worker, and the worker fills out the top portion.

The worker and attending provider complete the “Provider’s Initial Report” (F207-028-000), though this form is not required for a worker to file a claim. Both the SIF-2 and PIR forms are returned to the employer; you are responsible for reporting the claim to L&I.

Denials

If you believe a claim should be denied, you must provide written notice of the request for denial to the worker, attending provider, and L&I. This notice should be provided on a form substantially similar to the “Self-Insured Employer’s Request for Denial of Claim” form, also known as a SIF-4 (F207-163-000).

Until L&I officially denies the claim, if the attending provider certifies that the worker is eligible, you must pay temporary total disability, or time-loss benefits. If L&I then denies the claim, you may recover the money from the worker.

Reporting workplace injury or illness

You are required to report to L&I all occupational injuries or diseases that result in treatment by a health-care provider, hospitalization, time lost from work, or death. Report your workers’ industrial insurance injuries and illnesses with a “Self-Insurer Accident Report” (F207-002-000). Also referred to as the SIF-2, you can order the forms by calling 360-902-6898, or by faxing orders to 360-902-6977. Claims involving only medical treatment are reported monthly after the claims are closed.



Paying providers

Self-insured employers pay for all allowable medical services directly to the provider(s). Medical fees and rules are set by L&I. You have the right to refuse to pay for medical care not allowable under the medical aid rules and fee schedules or under the industrial insurance laws. For the current fee schedule and other related information, please go to L&I’s Web site at www.feeschedules.Lni.wa.gov.

Using the online Claim & Account Center

Self-insured employers or their approved representatives can review claims information in L&I’s claim file using the online Claim & Account Center at www.ClaimInfo.Lni.wa.gov.

To access the Claim & Account Center, you will need a Participation Activation Code. Please contact the Certification Services Unit at 360-902-6860 to obtain your PAC code.

Closing claims

Medical-only claims

If a claim involves only medical treatment and there is no indication that a temporary or permanent impairment is likely, you may close the claim. At the end of each month, you must send L&I a copy of the accident report for each closed medical-only claim.

Temporary-disability claims

You may close a temporary-disability claim, if it meets all of the following criteria:

- The date of injury is on or after July 1, 1986.
- There is no permanent partial disability.
- There is no dispute.
- The worker has returned to work with the employer of injury at the same job or at a job with comparable wages and benefits.

Permanent-impairment claims

You may close permanent-impairment claims if:

- The date of injury is on or after August 1, 1997.
- There is no dispute.
- The closing medical was sent to the worker's doctor for comments, with 14 days allowed for response.
- The worker has returned to work with the employer of injury at the same job or at a job with comparable wages and benefits.

Medical examinations

Decisions regarding claim allowance are based largely on medical evidence and the events of the accident.

Medical examinations can be ordered following the first 60 days of treatment, or earlier if the claim's validity is questioned. Most medical examinations for claims that are not disputed are ordered by self-insurers. These are primarily diagnostic, that is, to rate the degree of impairment, to decide if further treatment is necessary, or to determine if a claim should be closed. Labor & Industries is authorized to intervene in any dispute and order additional medical examinations, if needed, in cases of controversial, protested or aggravated-condition claims.

When a self-insurer requests a determination by L&I on a claim, you must submit all documentation regarding a claim, including medical evaluations, to the department.

Protests or disputes

If a protest or dispute arises over a claim, you must provide information to the department to allow us to resolve the problem or issue an order.

Third-party actions

If a worker's injury is caused by someone not working for the employer or by a product manufactured by another company, the worker can sue the person not working for the employer or the product manufacturer (a third party) for recovery of damages.

If the worker chooses not to pursue a third-party action, the self-insurer may do so on the worker's behalf. In all cases, the worker will receive benefits on the same basis as any other eligible worker while awaiting the outcome of the claim.

The self-insurer may recover the amount paid for benefits under the claim from the recovery paid by the third party. Self-insurers are also subject to the laws governing third-party actions, including the reporting and distribution requirements affecting any settlement or award. However, under the Tort Reform Act, a self-insurer's right to collect from the third-party recovery may not apply on actions filed on or after August 1, 1986.

Benefit increases

On July 1, 1984, workers and their beneficiaries began receiving annual increases in time-loss benefits if their date of injury/illness was after July 1, 1971. These annual cost-of-living adjustments (COLA) are effective July 1 of each year.

Additional Requirements

Providing first aid

You must make sure that all employees have access to first-aid trained personnel. You can get help training your employees in first aid procedures from L&I's Division of Occupational Safety and Health (DOSH) at the L&I office nearest you.

First-aid kits also must be available in the workplace, regardless of how many employees you have. Make sure that first-aid supplies are:

- Readily available.
- Appropriate to your occupational setting, number of employees, and the response time of your emergency medical services.
- Easily accessible to all your employees.
- Stored in containers that protect them from damage, deterioration, or contamination. Containers must be clearly marked, not locked, and may be sealed.
- Able to be moved to the location of an injured or acutely ill employee.

Special circumstances

Your first-aid requirements are more specific if your employees are logging or doing work that involves high voltages or confined-space entry. For more information, contact DOSH at the closest L&I office.

Emergency washing facilities

If your employees work with corrosives, strong irritants, or toxic chemicals, you may need emergency washing facilities. You can find information about emergency washing facilities online at www.Lni.wa.gov/WISHA/Rules/CoreRules.

Other requirements under WISHA and OSHA

There may also be legal requirements for dealing with job-related accidents under the Washington Industrial Safety and Health Act (WISHA) and the federal Occupational Safety and Health Administration (OSHA).

You can get complete information on WISHA rules from DOSH. DOSH can assist you in complying with all rules including recommendations for routine safety meetings for workers. Maintenance of an accident-prevention program is an ongoing requirement for continuing self-insurance.

Confidentiality

The confidentiality of all claim records and records of employment is protected by law. It is your responsibility as the employer to maintain this confidentiality. All records, payrolls, and books are subject to L&I's inspection and verification.

Informing workers about their rights and obligations

Self-insured employers must develop and maintain a comprehensive program to inform your workers about the self-insurance program and the rights and obligations of employers and employees. The program must orient current and new workers within 30 days of hire. L&I provides a description of what you must include in your program to inform workers. We must approve any plan.

Compliance and Legal Issues

If a self-insured employer fails to comply with industrial insurance laws and regulations, L&I can impose financial penalties, place you on corrective action, or decertify you as a self-insured employer.

When penalties can be assessed

The following list summarizes the situations in which you could be subject to financial penalties:

- Failure to obtain industrial insurance coverage.
- Misrepresenting payroll information.
- Failure to keep records.
- Refusal to allow L&I to inspect records.
- Illegal collections from employees for medical treatment or transportation.
- Injury caused by failure to provide state-required safeguards or protection.
- Injury of a minor who is prohibited by age from working in a given occupation.
- Failure to submit quarterly and annual reports.
- Failure to submit the required audited annual financial statement when due.
- Unreasonable delay or refusal to pay benefits.
- Failure to observe, obey or comply with any rule of the department.
- Default in the payment of any obligation.
- Misrepresenting information on which benefits are based.
- Failure to reimburse L&I for pension benefits.
- Failure to comply with Self-Insurance Electronic Data Reporting System (SIEDRS) requirements.

Corrective action and decertification

Significant deficiencies in your workers' compensation program can be grounds for placing you on corrective action, or for decertification.

Corrective action

L&I can place you on probationary status as a self-insurer for a specific period of time. If you do not correct the deficiencies in your program during the corrective action period, L&I may revoke your certification for self-insurance.

Petitions for decertification

Any employee, union, or association with a substantial number of employees employed by the self-insurer can petition L&I's director to decertify the self-insurer. If the department determines that the petitioner has provided sufficient grounds to refer the action for a hearing, an administrative law judge will conduct a hearing on the issue. Based on the hearing records, the L&I director will make the final decision to decertify the self-insurer or place it on corrective action.

Legal actions

Washington State law prohibits workers or their heirs from suing the worker's employer for job-related injuries or illnesses. The exception is when an employer intentionally caused a worker's injury, illness or death.

If You Disagree with an L&I Decision

The Department of Labor & Industries may make decisions that affect your business, such as actions on an industrial insurance claim. You have the right to protest or appeal any decision, but you must follow certain legal procedures to protect your rights.

Protest/reconsideration

After receiving notice of a department decision in a legal notice and order, self-insured employers have 60 days in which to submit a written letter to Labor & Industries protesting or requesting reconsideration of the ruling.

If you write us within the appropriate time period, the law requires us to respond to your protest with another written decision. Our further decision may either change or reaffirm our earlier ruling.

If you choose, you may appeal the notice to the Board of Industrial Insurance Appeals instead of protesting to L&I.

Appeal

If you disagree with the second decision, you may appeal in writing to the Board of Industrial Insurance Appeals in Olympia. You must appeal within 60 days of receiving the department's decision.

The Board of Industrial Insurance Appeals is separate and independent from Labor & Industries. It is a three-member, quasi-judicial board that conducts hearings on workers' compensation issues that cannot be settled to the satisfaction of you, your employee, or Labor & Industries.

Appeals can be lengthy and complex. For complete information, please write to the Board for a copy of its booklet, *Your Right to Be Heard*, at the following address: PO Box 42401, Olympia 98504-2401. You can also contact the board through its Web site at www.biia.wa.gov/.

Resources

Ordering forms

Most L&I forms and publications have a document number beginning with an "F."

Forms available only in paper

Order the following forms by calling 360-902-6898, or by faxing orders to 360-902-6977.

- Physician's Initial Report (F207-028-000)
- Self-Insurer's Accident Report, also referred to as SIF-2 (F207-002-000)

Online forms

You can find the forms you need online at www.Lni.wa.gov/FormPub/, though you can also obtain them by calling 360-902-6898, or by faxing a request to 360-902-6977.

Ordering workplace posters

Self-insured employers must post the following posters where their employees can read them.

Available from the Self-Insurance Section, 360-902-6898, or online at www.Lni.wa.gov/FormPub/.

- Notice to Employees – Self-Insured Businesses (F207-037-909)
Note: Before March 1, 2009, order F207-037-000.

Available from local L&I Offices (phone numbers listed below), or online at www.Lni.wa.gov/FormPub/.

- Job Safety and Health Protection Law (F416-081-909)
- Your Rights as a Worker (F700-074-909)

Note: Your local L&I office also can provide you with the recommended Washington Minimum Wage poster (F700-102-909).

Most requested phone numbers

Fatality /catastrophe reporting..... 1-800-423-7233
Forms360-902-6898
Self-Insurance Section.....360-902-6867
Certification Services Unit 360-902-6860
(to request Participation Activation Codes needed to use L&I's online Claim & Account Center)

Contacting local L&I offices

Region 1

Northwest Washington

Bellingham 360-647-7300
Everett..... 425-290-1300
Mount Vernon 360-416-3000

Region 2

King County

Bellevue 425-990-1400
Seattle 206-515-2800
Tukwila 206-835-1000

Region 3

Pierce County/Peninsula

Bremerton 360-415-4000
Port Angeles 360-417-2700
Tacoma 253-596-3800

Region 4

Southwest Washington

Aberdeen 360-533-8200
Longview 360-575-6900
Tumwater 360-902-5799
Vancouver 360-896-2300

Region 5

Central Washington

East Wenatchee 509-886-6500
Kennewick..... 509-735-0100
Moses Lake 509-764-6900
Yakima 509-454-3700

Region 6

Eastern Washington

Colville 509-684-7417
Pullman 509-334-5296
Spokane 509-324-2600

Other formats for persons with disabilities are available on request. Call 1-800-647-0982. TDD users, call 360-902-5797. L&I is an equal opportunity employer.